



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Acting Administrative Code Editor

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Fax: (515)281-5534

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2011

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 22 '10	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11
Jan. 7	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	May 13	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	***May 25***	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	***June 22***	July 13	Aug. 17	Nov. 14
May 13	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 25	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	Aug. 19	Sep. 7	Oct. 12	Jan. 9 '12
July 8	July 27	Aug. 16	Aug. 31	***Aug. 31***	Sep. 21	Oct. 26	Jan. 23 '12
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '12
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '12
Aug. 19	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 5 '12
Aug. 31	Sep. 21	Oct. 11	Oct. 26	***Oct. 26***	Nov. 16	Dec. 21	Mar. 19 '12
Sep. 16	Oct. 5	Oct. 25	Nov. 9	***Nov. 9***	Nov. 30	Jan. 4 '12	Apr. 2 '12
Sep. 30	Oct. 19	Nov. 8	Nov. 23	***Nov. 23***	Dec. 14	Jan. 18 '12	Apr. 16 '12
Oct. 14	Nov. 2	Nov. 22	Dec. 7	***Dec. 7***	Dec. 28	Feb. 1 '12	Apr. 30 '12
Oct. 26	Nov. 16	Dec. 6	Dec. 21	***Dec. 21***	Jan. 11 '12	Feb. 15 '12	May 14 '12
Nov. 9	Nov. 30	Dec. 20	Jan. 4 '12	Jan. 6 '12	Jan. 25 '12	Feb. 29 '12	May 28 '12
Nov. 23	Dec. 14	Jan. 3 '12	Jan. 18 '12	Jan. 20 '12	Feb. 8 '12	Mar. 14 '12	June 11 '12
Dec. 7	Dec. 28	Jan. 17 '12	Feb. 1 '12	Feb. 3 '12	Feb. 22 '12	Mar. 28 '12	June 25 '12
Dec. 21	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
13	Wednesday, December 8, 2010	December 29, 2010
14	Wednesday, December 22, 2010	January 12, 2011
15	Friday, January 7, 2011	January 26, 2011

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, December 14, 2010, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGING, DEPARTMENT ON[17]

Facility records; civil penalties, 8.3, 8.4 Notice **ARC 9227B** 11/17/10

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Administration—department bureaus, 1.2 Filed Emergency **ARC 9220B** 11/17/10

Collection of debt—licensing sanctions, 7.1, 7.2 Notice **ARC 9219B** 11/17/10

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Examinations for dentists and dental hygienists, 11.2(2)“e,” 11.5(2)“e,” 12.1, 12.3, 12.4

Notice **ARC 9243B** 12/1/10

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Site development program, ch 77 Notice **ARC 9255B** 12/1/10

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Regulation of greenhouse gas emissions, 22.100, 33.3(1) Filed **ARC 9224B** 11/17/10

Water quality standards—surface water classifications, 61.3(5) Filed **ARC 9223B** 11/17/10

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”

Continuing education for local emergency management coordinators, 7.4(4)“a” Notice **ARC 9226B** 11/17/10

Iowa hazard mitigation plan, 9.3 Filed **ARC 9244B** 12/1/10

HUMAN SERVICES DEPARTMENT[441]

Electronic health record incentive program, 7.1, 79.16 Filed Emergency **ARC 9254B** 12/1/10

Promoting healthy marriage program, amendments to ch 47 Notice **ARC 9225B** 11/17/10

Medicaid coverage for pharmaceutical compounding supplies, 78.10(4) Filed Emergency **ARC 9256B** 12/1/10

Child care quality rating system, amendments to ch 118 Filed **ARC 9257B** 12/1/10

Dependent adult abuse—“at-risk adult,” reports, referrals, assessment and safety plan, 176.1, 176.6 Filed **ARC 9258B** 12/1/10

INSPECTIONS AND APPEALS DEPARTMENT[481]

Recognized hospital accreditation organizations, 51.2, 51.6, 51.53(7) Filed **ARC 9253B** 12/1/10

Hospital food and nutrition services, 51.20 Filed **ARC 9252B** 12/1/10

Construction standards for hospitals and off-site premises, 51.50 to 51.52 Filed **ARC 9251B** 12/1/10

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Annual audited financial reports, 5.25 Filed **ARC 9228B** 11/17/10

Limited purpose subsidiary life insurance companies, ch 99 Filed **ARC 9229B** 11/17/10

Standards and commissioner’s authority for companies deemed to be in hazardous financial condition, ch 110 Filed **ARC 9231B** 11/17/10

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

OSHA standards for cranes and derricks—adoption by reference, 26.1 Filed **ARC 9230B** 11/17/10

Conveyance safety program, 71.1, 71.5, 71.9, 71.11, 71.14, 71.16 Filed **ARC 9221B** 11/17/10

Conversion of power boilers; code and code cases adopted by reference; control safety data reports, 90.15, 91.1, 91.20(1)“d” Filed **ARC 9232B** 11/17/10

Complimentary tickets for mixed martial arts events, 177.1 Notice **ARC 9233B** 11/17/10

MANAGEMENT DEPARTMENT[541]

Fiscal oversight of the early childhood Iowa initiative, ch 9 Notice **ARC 9222B** 11/17/10

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Board of mortuary science, amendments to chs 4, 100 to 102 Filed **ARC 9239B** 11/17/10

PUBLIC HEALTH DEPARTMENT[641]

Table of reportable poisonings and conditions, ch 1 appendix B Filed Emergency **ARC 9250B** 12/1/10

Outpatient diabetes education programs, amendments to ch 9	<u>Filed</u>	ARC 9249B	12/1/10
Volunteer health care provider program, 88.2, 88.3, 88.5, 88.6	<u>Notice</u>	ARC 9245B	12/1/10
Iowa child death review team, 90.1, 90.3 to 90.9	<u>Filed</u>	ARC 9248B	12/1/10
Iowa fatality review committee, 92.2 to 92.4, 92.6	<u>Notice</u>	ARC 9236B	11/17/10
Iowa needs nurses now infrastructure account, ch 111	<u>Filed</u>	ARC 9247B	12/1/10
Emergency medical services advisory council representatives, 130.3	<u>Notice</u>	ARC 9237B	11/17/10
EMS—removal of references to basic care, 132.1, 132.7(5), 132.8	<u>Notice</u>	ARC 9240B	11/17/10
Fire department response with defibrillators, 143.16 to 143.18	<u>Notice</u>	ARC 9241B	11/17/10
Governmental public health advisory bodies, ch 186	<u>Filed</u>	ARC 9246B	12/1/10

PUBLIC SAFETY DEPARTMENT[661]

Weapons and Iowa professional permits to carry weapons, ch 91	<u>Filed</u>	ARC 9238B	11/17/10
Liquefied petroleum gas—reference updates, stationary service, 226.1, 226.4, 226.5, 226.7, 226.8	<u>Filed</u>	ARC 9235B	11/17/10
Electrician and electrical contractor licensing, 500.2, 502.1 to 502.3	<u>Filed</u>	ARC 9234B	11/17/10

REGENTS BOARD[681]

Prohibited interest in public contracts, 8.9	<u>Notice</u>	ARC 9242B	12/1/10
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

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DENTAL BOARD[650]

Examinations for dentists and dental hygienists, 11.2(2)“e,” 11.5(2)“e,” 12.1, 12.3, 12.4
IAB 12/1/10 **ARC 9243B**

Board Conference Room
400 SW 8th St., Suite D
Des Moines, Iowa

December 21, 2010
2 p.m.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Site development program,
ch 77
IAB 12/1/10 **ARC 9255B**

IDED Southwest Room
200 E. Grand Ave.
Des Moines, Iowa

December 21, 2010
10 to 11 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Continuing education for local emergency management coordinators, 7.4(4)“a”
IAB 11/17/10 **ARC 9226B**

Division Conference Room
Building W-4, Camp Dodge
Johnston, Iowa

December 8, 2010
10:30 a.m.

LABOR SERVICES DIVISION[875]

Complimentary tickets for mixed martial arts events, 177.1
IAB 11/17/10 **ARC 9233B**

Capitol View Room
1000 E. Grand Ave.
Des Moines, Iowa

December 8, 2010
9 a.m.
(If requested)

MANAGEMENT DEPARTMENT[541]

Fiscal oversight of the early childhood Iowa initiative, ch 9
IAB 11/17/10 **ARC 9222B**

Room 142
Lucas State Office Bldg.
Des Moines, Iowa

December 7, 2010
9 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Volunteer health care provider program, 88.2, 88.3, 88.5, 88.6
IAB 12/1/10 **ARC 9245B**

GoToMeeting online at:
<https://www1.gotomeeting.com/join/847635881>
Toll-free: 1-877-568-4106
Access Code: 847-635-881

December 21, 2010
9 to 10 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 9243B

DENTAL BOARD[650]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” and Chapter 12, “Dental and Dental Hygiene Examinations,” Iowa Administrative Code.

The purpose of the proposed amendments is to establish Central Regional Dental Testing Service, Inc. (CRDTS) as the examination the Dental Board will recognize for purposes of licensure in Iowa as a dentist or dental hygienist. The amendments remove Western Regional Examining Board, Inc. (WREB) and American Board of Dental Examiners, Inc. (ADEX) from the list of allowable examinations for purposes of licensure in the state.

These amendments are subject to waiver or variance pursuant to Iowa Administrative Code 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendments no later than 5 p.m. on December 21, 2010. Such written comments should be directed to Melanie Johnson, Executive Director, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Melanie.Johnson@iowa.gov.

Also, there will be a public hearing on December 21, 2010, beginning at 2 p.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the November 2, 2010, special teleconference meeting of the Dental Board. The Board ratified the recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes for the dental hygiene examination for licensure.

These amendments are intended to implement Iowa Code chapters 17A, 147 and 153.

The following amendments are proposed.

ITEM 1. Amend paragraph **11.2(2)“e”** as follows:

e. Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by ~~the American Board of Dental Examiners, Inc.~~, the Central Regional Dental Testing Service, Inc. (CRDTS), ~~or the Western Regional Examining Board, Inc. (WREB).~~

ITEM 2. Amend paragraph **11.5(2)“e”** as follows:

e. Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by the Central Regional Dental Testing Service, Inc. ~~or the Western Regional Examining Board, Inc.~~

ITEM 3. Amend rule 650—12.1(147,153) as follows:

650—12.1(147,153) Clinical examination procedure for dentistry.

12.1(1) To meet the requirements for dental licensure by examination, applicants shall complete the examination administered by ~~the American Board of Dental Examiners, Inc. (ADEX)~~, the Central Regional Dental Testing Service, Inc. (CRDTS), ~~or the Western Regional Examining Board, Inc. (WREB).~~

DENTAL BOARD[650](cont'd)

12.1(2) Examinees shall meet the requirements for testing and follow the procedures established by ~~the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.~~

12.1(3) Prior to April 1, 1995, the examinee must attain an average grade of not less than 70 percent on each clinical portion of the examination and 70 percent on the written portion of the examination. Between April 1, 1995, and December 31, 2000, the examinee must attain an average grade of not less than 75 percent on each clinical portion of the examination and 75 percent on the written portion of the examination. Effective January 1, 2001, the examinee must attain a comprehensive score that meets the standard for passing established by ADEX, CRDTS, or WREB. Effective [insert effective date of these amendments], the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS.

12.1(4) Each examinee shall be required to perform such clinical operations as may be required by ~~the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc. (CRDTS), or the Western Regional Examining Board, Inc. (WREB)~~ for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

ITEM 4. Amend subrule 12.2(5) as follows:

12.2(5) *Failures of other examinations.* If a dental examinee applies for ~~the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.,~~ examination after having failed any other state or regional examination, the ~~failures~~ failure shall be considered ~~ADEX, a CRDTS, or WREB failures~~ failure for the purposes of retakes.

ITEM 5. Amend rule 650—12.3(147,153) as follows:

650—12.3(147,153) Clinical examination procedure for dental hygiene.

12.3(1) To meet the requirements for dental hygiene licensure by examination, applicants shall complete the examination administered by ~~either the Central Regional Dental Testing Service, Inc. (CRDTS) or the Western Regional Examining Board, Inc. (WREB).~~

12.3(2) Examinees shall meet the requirements for testing and follow the procedures established by ~~either the Central Regional Dental Testing Service, Inc. or the Western Regional Examining Board, Inc.~~

12.3(3) Prior to December 31, 2003, the examinee must attain an average grade of 70 percent on the examination. Effective January 1, 2004, the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS or WREB. Effective [insert effective date of these amendments], the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS.

12.3(4) Each examinee shall be required to perform such practical demonstrations as may be required by the Central Regional Dental Testing Service, Inc. ~~or the Western Regional Examining Board, Inc.,~~ for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

ITEM 6. Amend paragraph **12.4(1)“a”** as follows:

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS ~~or WREB.~~

ITEM 7. Amend subrule 12.4(5) as follows:

12.4(5) *Failures of other examinations.* If a dental hygiene examinee applies for the Central Regional Dental Testing Service, Inc. ~~or the Western Regional Examining Board, Inc.~~ examination after having failed any other state or regional examination, the ~~failures~~ failure shall be considered a CRDTS or WREB failure for the purposes of retakes.

ARC 9255B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt new Chapter 77, “Site Development Program,” Iowa Administrative Code.

This proposed chapter implements a new site development program to increase the availability and expedite the development of sites in Iowa that may be suitable for achieving the state’s economic development objectives, specifically regarding the availability and development of potential commercial and industrial sites. The Legislature appropriated \$175,000 for the program in 2010 Iowa Acts, Senate File 2389, section 36.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on December 21, 2010. Interested persons may submit written or oral comments by contacting Matt Rasmussen, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3126; or E-mail matt.rasmussen@iowa.gov.

The Department will hold a public hearing on Tuesday, December 21, 2010, from 10 to 11 a.m. to receive comments on these rules. The public hearing will be held in the Southwest Room, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These rules are intended to implement Iowa Code section 15E.18 as amended by 2010 Iowa Acts, Senate File 2389, section 36.

The following amendment is proposed.

Adopt the following **new** 261—Chapter 77:

CHAPTER 77
SITE DEVELOPMENT PROGRAM

DIVISION I
GENERAL PROVISIONS

261—77.1(15E) Purposes. The purposes of the site development program are to establish an inventory of sites in Iowa that may be suitable for development or redevelopment and to provide consultation to local governments about site development techniques.

261—77.2(15E) Authority. The authority for establishing this program is provided in 2010 Iowa Acts, Senate File 2389, sections 36 and 37.

261—77.3(15E) Definitions.

“*Applicant*” means the entity that submits an application to the department for a certificate of readiness for a site development area or areas.

“*Certificate of readiness*” means a certificate issued to a local government or local economic development official for a site that is determined to be ready for development or redevelopment based on criteria set forth in rule 261—77.13(15E).

“*Department*” means the Iowa department of economic development.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

“*Site development area*” means property included as part of a site development plan that is to be used or proposed to be used for development or redevelopment.

“*Site development techniques*” means environmental evaluations, property and wetland delineation, and historical evaluations.

261—77.4 to 77.10 Reserved.

DIVISION II
CERTIFICATE OF READINESS

261—77.11(15E) Eligibility. Eligible applicants may apply to the department for a certificate of readiness which verifies that a particular site is ready for development. The following eligibility criteria shall apply:

77.11(1) *Minimum size.* The department will evaluate only sites of 50 acres or more for a certificate of readiness.

77.11(2) *Eligible applicants.* Eligible applicants include local governments or local economic development officials.

261—77.12(15E) Application; review; approval.

77.12(1) *Application.* All requests for a certificate of readiness for a site development area shall be made using the application provided by the department. The application shall include at least the following information:

- a. Applicant information, including name, address, telephone number and contact person.
- b. Legal description of the site development area(s).
- c. Identification of the property owner(s) related to the site development area(s).
- d. Detailed site development plan(s) for the site development area(s).

77.12(2) *Review.* The department will review each complete application in the order the applications are received and based on the general criteria described in subrule 77.13(1). The department will evaluate each application to identify any barriers to development or redevelopment.

77.12(3) *Approval.* The department may approve, deny or defer applications for a certificate of readiness. If the department approves an application for a certificate of readiness, the department will issue a certificate of readiness in accordance with rule 261—77.14(15E).

261—77.13(15E) Criteria for evaluating sites.

77.13(1) *General.* When evaluating applications for certificates of readiness, the department may consider the following criteria:

- a. The thoroughness and detail of the site development plan.
- b. The site development plan's regard for compliance with applicable regulations, including without limitation land-use and zoning restrictions or environmental or cultural protections.
- c. The presence of viable transportation infrastructure.
- d. The presence of viable utility infrastructure.
- e. The presence of viable vertical infrastructure, as defined in Iowa Code section 8.57, which includes existing land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails.
- f. The geologic and natural characteristics of the site development area(s) including the proximity or inclusion of any flood plains.
- g. The ownership and control of the site development area(s).
- h. Demonstrated support, including without limitation financial and local support, for the site development plan.

77.13(2) *Additional criteria.* In addition to the general criteria described above, the department will consider the following additional criteria:

- a. The site development plan for the site development area utilizes smart planning techniques, as identified by the smart planning task force created by 2010 Iowa Acts, Senate File 2389.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

b. The site development plan for the site development area utilizes sustainable design and practices.

(1) For purposes of these rules, sustainable practices include those practices in accordance with the department's Iowa green streets criteria, which are available on the department's Web site.

(2) For purposes of these rules, sustainable design, as defined in rule 261—65.2(15), means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants, including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

261—77.14(15E) Certificate of readiness.

77.14(1) Certification. Upon approval of an application for a certificate of readiness, the department will issue a certificate of readiness to the applicant. The certificate of readiness will include a short description of how the site development plan meets the general criteria described in subrule 77.13(1) and will include whether the site development plan meets the additional criteria described in subrule 77.13(2) and a short discussion related thereto, if applicable. The certificate of readiness will be valid for the term described on the certificate, which may vary for each site development area depending on the nature of the development and the site characteristics. In no event shall the term of a certificate exceed ten years.

77.14(2) Recertification. The department shall not recertify site development areas for which a certificate of readiness has expired or will expire. The local government or local economic development official responsible for the site development area shall reapply for a certificate of readiness under these rules to be considered for a subsequent certificate of readiness.

261—77.15 to 77.20 Reserved.

DIVISION III
CONSULTATION

261—77.21(15E) Consultation.

77.21(1) The department shall consult with local governments and local economic development officials in regard to site development techniques. The department may contract with third parties to provide site development consultations regarding site development techniques directly to local governments and local economic development officials.

77.21(2) The department may charge a reasonable fee for consultation. A local government or local economic development official seeking assistance under subrule 77.21(1) shall make a request to the department and provide information requested by the department for use in formulating a fee estimate and work plan. The department shall provide a fee estimate to the interested local government or local economic development official and a description of the services that will be provided prior to undertaking any work. The fee shall be reasonable and shall cover the department's costs of providing the service. The department may require the local government or local economic development official to enter into a contract that identifies the services to be performed and obligates the local government or local economic development official to pay the fee to the department or a third-party consultant for satisfactory completion of services.

77.21(3) Applicants are not required to seek consultation under the program to be eligible to apply for a certificate of readiness and may seek consultation from the department at any time.

These rules are intended to implement Iowa Code section 15E.18 as amended by 2010 Iowa Acts, Senate File 2389, section 36.

ARC 9245B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

These amendments provide clarification on surgery to be performed in a volunteer health care provider clinic, where surgery can be performed, who can perform the surgery, and the required follow-up for the surgery. The amendments also alphabetically organize the health care provider professions eligible to receive Volunteer Health Care Provider Program (VHCPP) protection. Definitions have been added to provide further clarification regarding the VHCPP.

Any interested person may make written comments on these proposed amendments on or before December 21, 2010, addressed to Dawn Mouw, Division of Health Promotion and Chronic Disease Prevention, Department of Public Health, 8809 Woodmayr Circle, Norwalk, Iowa 50211; E-mail dawn.mouw@idph.state.ia.us.

Also, a public hearing will be held on Tuesday, December 21, 2010, from 9 to 10 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/join/847635881>. The use of microphone and speakers (VoIP) or a headset is recommended. Or interested persons may join the meeting by telephone in the U.S. and Canada (toll-free) 1-877-568-4106; the access code is 847-635-881, and an audio PIN will be shown after the person joins the meeting. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who plans to participate in the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of specific needs.

These amendments are intended to implement 2009 Iowa Code Supplement section 135.24.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **641—88.2(135)**:

“*Major dental surgery*” means oral or maxillofacial surgery which requires deep sedation or general anesthesia.

“*Minor dental surgery*” means the simple minimally invasive removal of teeth and soft tissue incisions, including the surgical removal of a small foreign body, drainage of infection and small cysts, or the surgical removal of broken or decayed teeth at or below the gum line.

“*Minor surgical procedure*” means a surgical procedure ordinarily performed in a private provider’s office, free clinic, or specialty health care provider office.

ITEM 2. Amend rule **641—88.2(135)**, definitions of “Sponsor entity” and “Sponsor entity agreement,” as follows:

“*Sponsor entity*” or “*sponsor entity clinic*” means a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office or field dental clinic. Each sponsor entity has a fully executed sponsor entity agreement. The sponsor entity agreement shall allow an individual volunteer health care provider to deliver health care services to uninsured and underinsured persons as an agent of the state.

“*Sponsor entity agreement*” means a signed contract between the VHCPP and a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care

PUBLIC HEALTH DEPARTMENT[641](cont'd)

provider office or field dental clinic allowing an individual volunteer health care provider to deliver free health care services through the VHCPP at the sponsor entity location.

ITEM 3. Amend paragraphs **88.3(2)“d”** and **“e”** as follows:

d. The protected clinic shall submit a list of the clinic board of directors and contact information for the board of directors, if applicable.

e. ~~The~~ If the protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the protected clinic shall submit provide proof of IRC Section 501(c)(3) status to the VHCPP.

ITEM 4. Amend subrule 88.3(3) as follows:

88.3(3) Sponsor entity or sponsor entity clinic. As a condition of sponsoring individual volunteer health care providers in the VHCPP, a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office or field dental clinic shall comply with subrules 88.4(1) through 88.4(5).

ITEM 5. Amend subparagraph **88.5(1)“d”(1)** as follows:

(1) Advanced registered nurse practitioners for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Certified registered nurse anesthetists may provide anesthesia services for major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility as defined in Iowa Code section 135.61(21);

2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician performing the surgery provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

ITEM 6. Amend subparagraph **88.5(1)“d”(3)** as follows:

(3) Bachelor social workers for: psychosocial assessment and intervention through direct contact with clients; referral to other qualified resources for assistance; performance of social histories; problem identification; establishment of goals and monitoring of progress; interviewing techniques; counseling; social work administration; supervision; evaluation; interdisciplinary consultation and collaboration; ~~and research of service delivery, including development and implementation of organizational policies and procedures in program management.~~

ITEM 7. Amend subparagraph **88.5(1)“d”(7)** as follows:

(7) Dentists for: ~~dental examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; and minor surgical procedures~~ primary dental care services; minor dental surgery; and major dental surgery.

1. Minor dental surgery is a covered health care service only if the following conditions are satisfied:

• The dentist performs the surgery at a sponsor entity or protected clinic; and

• The dentist provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postsurgical complications.

2. Major dental surgery is a covered health care service only if the following conditions are satisfied:

• The dentist performs the surgery in the dentist’s private office or other facility at which major dental surgery is ordinarily performed;

• The dentist provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postsurgical complications; and

PUBLIC HEALTH DEPARTMENT[641](cont'd)

3. The dentist performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

ITEM 8. Amend subparagraphs **88.5(1)“d”(15)** to **(20)** as follows:

~~(15) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.~~

~~(15) (16) Pharmacists for: drug dispensing; patient counseling; health screenings and education; and immunizations.~~

~~(16) (17) Physical therapists for: interpretation of performance, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program; treatment planning; and patient instruction/education.~~

~~(17) (18) Physicians and physician assistants for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Physicians may perform major surgical procedures if the following conditions are satisfied:~~

~~1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility as defined in Iowa Code section 135.61(21);~~

~~2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;~~

~~3. The physician provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and~~

~~4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.~~

~~(19) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.~~

~~(18) (20) Psychologists for: counseling and the use of psychological remedial measures with persons with adjustment or emotional problems.~~

~~(19) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.~~

~~(20) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.~~

ITEM 9. Amend subrule 88.6(1) as follows:

88.6(1) The claim involves medical injury alleged to have been proximately caused by health care services which were identified and approved in the protection or sponsor agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the individual volunteer health care provider, including claims based on negligent delegation of health care, or the individual volunteer health care provider is named as a defendant solely because of the individual volunteer health care provider's participation in the protected clinic or sponsor entity clinic.

ITEM 10. Amend subrule 88.6(6) as follows:

88.6(6) The individual volunteer health care provider, protected clinic, or sponsor entity clinic is eligible and registered as provided in rule 641—88.3(135) or the care is provided by ~~an individual volunteer~~ a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A and has been approved by the VHCPP.

ARC 9242B

REGENTS BOARD[681]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 8, “Purchasing,” Iowa Administrative Code.

The proposed amendment revises rule 681—8.9(68B,262) to make Regent purchasing policy consistent with that of state government as outlined by Iowa Code section 68B.3 for vendors with conflicts of interest.

Any interested person may make written comments on this amendment on or before December 21, 2010, addressed to Patrice Sayre, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6421; or E-mail at psayre@iastate.edu.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681 IAC 19.18(17A).

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is proposed.

Amend rule 681—8.9(68B,262) as follows:

681—8.9(68B,262) Prohibited interest in public contracts.

8.9(1) Board policy. It is the policy of the board of regents that no employee of a regent institution, employee of the regent board office, or member of the board, shall sell, ~~either directly or indirectly,~~ any goods or services to any regent institution or state agency or the board office, except under the following conditions: unless it is consistent with the requirements of 351—6.10(68B). To help ensure conflicts of interest are properly managed, the regent institutions shall develop an internal review and approval process for all sales by an employee in excess of the bid threshold established by Iowa Code section 68B.3. Blanket approval may be granted.

a. ~~The board of regents must give its consent. The individual who wishes to sell goods or services must not participate in giving that consent. Further, the individual will be precluded from participating not only in the initial decision to purchase and to authorize, but also in all subsequent approvals which might include payment vouchers, contract amendments, or any substantive changes to such agreements.~~

b. ~~The responsibilities of the individual who wishes to sell goods or services must be such that they are not related to the regulatory authority of the board over the institution or the board office. Moreover, the selling of goods or the providing of services by the individual must not affect the individual’s responsibilities at the board. As such, review and approval authorizations must exist that will screen out potential conflicts of interest that could unduly influence decisions based upon providing such goods or services.~~

c. ~~An individual who sells goods or provides services to board institutions or the board office cannot include, as part of that exchange, the requirement that the individual serve as an advocate for the institution or office to the board.~~

d. ~~The selling of goods or the providing of services to a board institution or board office cannot be an indirect means of selling goods or providing services to the board.~~

8.9(2) When authorization is required. Each regent institution or the board office shall not purchase in any one occurrence any goods or services having a value in excess of \$2,000 from a regent institution employee, a regent board office employee, or a member of the board unless the sale is made after public notice and competitive bidding. Prior authorization can be given on a per-occurrence basis or on the

REGENTS BOARD[681](cont'd)

basis of approval by the regents of a list of individuals. Once approved by the board, an individual will remain on the approved master list maintained by the institution or office transacting business with the individual. The master list will be reviewed periodically as part of the institution's normal review process.

~~8.9(3) *Authorization process.* Such requests for authorizations shall be in writing and signed by the employee or board member requesting consent and shall include the individual's name, the individual's job responsibilities, the name of the individual's firm, if applicable, a listing of goods or services to be supplied, a supporting narrative comment as to the rationale for doing business with the individual and an explanation of why the sale will not create a conflict of interest or provide financial gain by virtue of one's position within the agency.~~

~~8.9(4) *Emergency purchases.* Purchases from such individuals that are critical to sustaining patient care or human life, maintaining critical research equipment, or similar instances, must be approved by the vice president for business and finance, superintendent, or equivalent title, or their designees, with subsequent approval by the board of regents at the next scheduled meeting.~~

~~8.9(5) *Reporting.* Regent institutions and the board office shall include with their annual purchasing report to the board a summary of the preceding fiscal year's purchases from individuals approved per subrule 8.9(2). The report will contain a narrative, where appropriate, relative to changes from the prior fiscal year in scope of services or goods provided, including, for example, assumption of additional product lines, expanded service capabilities and any other pertinent information that may have an effect upon increased volume for a particular individual or firm.~~

~~8.9(6) *Competitive bidding.* All purchases of goods or services by regent institutions, the board office, or the board also must comply with applicable bidding requirements.~~

~~8.9(7) *Effect of other laws.* Neither these rules nor any consent provided under them constitutes consent for any activity which would constitute a conflict of interest at common law or which violates any applicable statute or rule. Notwithstanding board consent under these rules, it is the responsibility of the individual selling the goods or services to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.~~

~~8.9(8) *Definition.* For purposes of these rules, the definition of employee shall be as follows:~~

~~"Employee" shall mean a paid employee of the state of Iowa, the employee's spouse or minor children, and any firm of which any of those persons is partner or sole proprietor, as well as any corporation of which any of those persons hold 5 percent or more stock either directly or indirectly.~~

~~This rule is intended to implement Iowa Code section sections 68B.3 and 68B.4.~~

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

December 1, 2009 — December 31, 2009	5.50%
January 1, 2010 — January 31, 2010	5.50%
February 1, 2010 — February 28, 2010	5.50%
March 1, 2010 — March 31, 2010	5.75%
April 1, 2010 — April 30, 2010	5.75%
May 1, 2010 — May 31, 2010	5.75%
June 1, 2010 — June 30, 2010	5.75%

USURY(cont'd)

July 1, 2010 — July 31, 2010	5.50%
August 1, 2010 — August 31, 2010	5.25%
September 1, 2010 — September 30, 2010	5.00%
October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%

ARC 9254B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 7, "Appeals and Hearings," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments implement the Iowa Electronic Health Record Incentive Program, as authorized by the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Act provides incentive payments for the adoption, upgrade, and meaningful use of certified electronic health record (EHR) technology. The federal government has issued standards and certification criteria for electronic health records. To qualify, an electronic record of health-related information about an individual must:

- Include patient demographic and clinical health information, such as medical history and problems lists; and
- Have the capacity to provide clinical decision support, support physician order entry, capture and query information relevant to health care quality, and exchange electronic health information with other sources and integrate information from other sources.

To encourage health care providers to implement such technology, federal legislation authorizes incentive payments to Medicare and Medicaid providers. To qualify to issue incentives to Medicaid providers, a state must submit to the Centers for Medicare and Medicaid Services (CMS):

- An advance planning document for health information technology planning which includes a project management plan, estimated costs, and required planning activities.
- The state's health information technology plan, including an assessment of state systems; descriptions of how the state will ensure the eligibility of applicants for incentives, monitor and validate provider information, and ensure that incentive payments meet federal requirements; and a description of the provider appeals process.
- An advance planning document for health information technology implementation which includes specific information about personnel, activities, methods, and costs identified through the development of the state health information technology plan.

After CMS approval of these documents, a state may issue incentive payments to the following types of Medicaid-enrolled providers:

- Physicians, dentists, certified nurse midwives, nurse practitioners, and certain physician assistants if Medicaid members (or "needy individuals" for a provider practicing predominantly in a federally qualified health center or rural health clinic) comprise at least 30 percent of the provider's patient volume. The threshold is 20 percent Medicaid patients for pediatricians.
- Acute care hospitals that have 10 percent of their patient volume in Medicaid members; and
- Children's hospitals (with no Medicaid patient threshold).

CMS has set the maximum net allowable costs for electronic records implementation for an eligible professional at \$25,000 for the first year of implementation, with the maximum incentive payment at 85 percent of this threshold, or \$21,250. The other 15 percent of the cost is the responsibility of the provider. For subsequent payment years, the allowable cost threshold is \$10,000, with a maximum incentive payment of \$8,500 per year. A provider may participate in the incentive program for a maximum of six years.

For a hospital, the incentive payments will be calculated in relation to a theoretical overall amount starting from a base amount of \$2 million per year for four years with adjustments based on the size of the facility, a transition factor that is reduced for each of the four years, and the Medicaid share of the hospital's charges for that year. A hospital may participate in the incentive program for a minimum of three years and a maximum of six years.

Providers may apply for payments when they meet the reporting requirement in the year for which they are applying. For eligible professionals, the reporting period and payment year is the calendar year. For hospitals, the reporting period and payment year is the federal fiscal year.

HUMAN SERVICES DEPARTMENT[441](cont'd)

After the first year of incentive payment, the hospital or professional must demonstrate that the technology implemented meets federal performance criteria for “meaningful use.” The federal regulation contains Stage 1 requirements. Higher Stage 2 and Stage 3 thresholds for meaningful use of technology will be introduced in later rule making.

Mandatory objectives in Stage 1 include computerized provider order entry; drug-drug and drug-allergy checks; problem, medication, and allergy lists; records of patient demographic information, vital signs, and smoking status; electronic reporting of clinical quality measures to the state; and provision of electronic copies of patient health information on request. The hospital or professional must also meet five of ten additional objectives, such as drug formulary checks, incorporation of clinical laboratory test results, lists of patients with specific conditions for quality improvement or outreach, and discharge summaries for transition to another provider or setting of care.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments November 10, 2010.

The Department finds that notice and public participation are unnecessary because the policies for this program are set by federal law and regulation. The Department has very little flexibility. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department finds that these amendments confer a benefit on providers by underwriting the costs of adopting electronic health records. Adoption of electronic records is essential to support the goals of improving patient care while containing costs of health care delivery. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective January 1, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “Aggrieved person,” numbered paragraph “7,” as follows:

7. For providers, a person or entity:

- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
- Whose claim for payment or request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department’s methodology.
- Whose contract as a Medicaid patient manager has been terminated.
- Who has been subject to the withholding of a payment to recover a prior overpayment or who has received an order to repay an overpayment pursuant to 441—subrule 79.4(7).
- Who has been notified that the managed care reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department’s quality rating decision, or whose certificate of quality rating has been revoked.
- Who has been subject to an adverse action related to the Iowa electronic health record incentive program pursuant to rule 441—79.16(249A).

ITEM 2. Adopt the following **new** rule 441—79.16(249A):

441—79.16(249A) Electronic health record incentive program. The department has elected to participate in the electronic health record (EHR) incentive program authorized under Section 4201 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law No. 111-5. The electronic health record incentive program provides incentive payments to eligible hospitals and professionals participating in the Iowa Medicaid program that adopt and successfully demonstrate meaningful use of certified electronic health record technology.

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79.16(1) State elections. In addition to the statutory provisions in Section 4201 of the ARRA, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

a. For purposes of the term “hospital-based eligible professional (EP)” as set forth in 42 CFR Section 495.4 as amended to July 28, 2010, the department elects the calendar year preceding the payment year as the period used to calculate whether or not an eligible professional is “hospital-based” for purposes of the regulation.

b. For purposes of calculating patient volume as required by 42 CFR Section 495.306 as amended to July 28, 2010, eligible providers may elect to use either:

- (1) The methodology found in 42 CFR Section 495.306(c) as amended to July 28, 2010, or
- (2) The methodology found in 42 CFR Section 495.306(d) as amended to July 28, 2010.

c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the state fiscal year.

79.16(2) Eligible providers. To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the following criteria:

a. The provider must be currently enrolled as an Iowa Medicaid provider.

b. The provider must be one of the following:

(1) An eligible professional, listed as:

1. A physician,
2. A dentist,
3. A certified nurse midwife,
4. A nurse practitioner, or
5. A physician assistant practicing in a federally qualified health center or a rural health clinic

when the physician assistant is the primary provider, clinical or medical director, or owner of the site.

(2) An acute care hospital, defined as a health care facility where the average length of stay is 25 days or fewer, which has a CMS certification number with the last four digits in the series 0001-0879 or 1300-1399.

(3) A children’s hospital, defined as a separately certified children’s hospital, either freestanding or a hospital-within-hospital, that predominately treats individuals under 21 years of age and has a CMS certification number with the last four digits in the series 3300-3399.

c. For the year for which the provider is applying for an incentive payment:

(1) An acute care hospital must have 10 percent Medicaid patient volume.

(2) An eligible professional must have at least 30 percent of the professional’s patient volume covered by Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume.

2. When a professional has at least 50 percent of patient encounters in a federally qualified health center or rural health clinic, patients who were furnished services either at no cost or at a reduced cost based on a sliding scale or ability to pay, patients covered by the HAWK-I program, and Medicaid members may be counted to meet the 30 percent threshold.

79.16(3) Application and agreement. Any eligible provider who wants to participate in the Iowa electronic health record incentive program must declare the intent to participate by registering with the National Level Repository, as developed by the Centers for Medicare and Medicaid Services (CMS). CMS will notify the department of an eligible provider’s application for the incentive payment.

a. Upon receipt of an application for participation in the program, the department will contact the applicant with instructions for accessing the EHR incentive payment program section of the Iowa Medicaid portal access (IMPA) Web site at <https://secureapp.dhs.state.ia.us/impa/>. The applicant shall use the Web site to:

(1) Attest to the applicant’s qualifications to receive the incentive payment, and

(2) Digitally sign Form 470-4976, Iowa Electronic Health Record Incentive Program Provider Agreement.

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b. For the second year of participation, the eligible provider must submit meaningful use and clinical quality measures to the department, either through attestation or electronically as required by the department.

c. The department shall verify the applicant's eligibility, including patient volume and practice type, and the applicant's use of certified electronic health record technology.

79.16(4) Payment. The department shall issue the incentive payment only after confirming that all eligibility and performance criteria have been satisfied. Payments will be processed and paid to the tax identification number designated by the applicant. The department will communicate the payment or denial of payment to the National Level Repository.

a. The primary communication channel from the department to the provider will be the IMPA Web site. If the department finds that the applicant is ineligible or has failed to achieve the criteria necessary for the payment, the department shall notify the provider through the Web site. Providers shall access the Web site to determine the status of their payment, including whether the department denied payment and the reason for the denial.

b. Providers must retain records supporting their eligibility for the incentive payment for a minimum of six years. The department will select providers for audit after issuance of an incentive payment. Incentive recipients shall cooperate with the department by providing proof of:

- (1) Eligibility,
- (2) Purchase of certified electronic health record technology, and
- (3) Meaningful use of electronic health record technology.

79.16(5) Administrative appeal. Any eligible provider or any provider that claims to be an eligible provider and who has been subject to an adverse action related to the Iowa electronic health record incentive program may seek review of the department's action pursuant to 441—Chapter 7. Appealable issues include:

- a.* Provider eligibility determination.
- b.* Incentive payments.
- c.* Demonstration of adopting, implementing, upgrading and meaningful use of technology.

This rule is intended to implement Iowa Code section 249A.4 and Public Law No. 111-5.

[Filed Emergency 11/10/10, effective 1/1/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9256B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

These amendments move the Medicaid coverage provisions for pharmaceutical compounding supplies from coverage as a pharmacy item to coverage as a medical supply item. The Centers for Medicare and Medicaid Services has issued notice that effective January 1, 2011, active pharmaceutical ingredients and excipients used in drug compounding will be classified as nondrug products. (An excipient is an inert substance added to a prescription to give the desired consistency or form.) These supplies will no longer be eligible for the drug rebate program but may continue to be covered as medical supply items.

If there is a commercially available prescription product that duplicates an extemporaneous (pharmacy-mixed) compound that a Medicaid member has been receiving, the member will be required to transition to that product rather than continuing to receive the extemporaneous compound. Medicaid will continue to cover certain active pharmaceutical ingredients and excipients as listed on the Preferred

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Drug List when a commercial product is not applicable. Pharmacies will continue to provide the active pharmaceutical ingredients and excipients and bill Medicaid in the same manner, but the expenditures will be recorded as medical supplies and not as drugs. Consistent with their current coverage as drugs, dispensing of compounding supplies will be limited to a 31-day supply.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments November 10, 2010.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments do not expand the coverage of these products, which have previously been covered as a drug benefit.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived so that the new coverage is in place effective with the date of the federal restrictions on drug coverage.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on January 1, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 78.10(4), introductory paragraph, as follows:

78.10(4) Medical supplies. Medical supplies are nondurable items consumed in the process of giving medical care, for example, nebulizers, gauze, bandages, sterile pads, adhesive tape, and sterile absorbent cotton. Medical supplies are payable for a specific medicinal purpose. This does not include food or drugs. However, active pharmaceutical ingredients and excipients that are identified as preferred on the preferred drug list published by the department pursuant to Iowa Code section 249A.20A are covered. ~~Medical supplies are shall not to be dispensed at any one time for in quantities exceeding a 31-day supply for active pharmaceutical ingredients and excipients or a three-month supply for all other items.~~ After the initial dispensing of medical supplies, the provider must document a refill request from the Medicaid member or the member's caregiver for each refill.

ITEM 2. Amend paragraph **78.10(4)“a”** by adding the following **new** item to the list of covered supplies:

Active pharmaceutical ingredients and excipients identified as preferred on the preferred drug list published pursuant to Iowa Code section 249A.20A.

[Filed Emergency 11/10/10, effective 1/1/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9250B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 139A.21, the Department of Public Health hereby amends Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code.

The rules in Chapter 1 identify diseases, poisonings and conditions, and incidents that are to be reported to the Department and describe what information to report, how and when to report, and who is to report. This chapter also provides for disease control through quarantine and isolation.

These amendments revise the table of reportable poisonings and conditions to correct errors in the descriptions of what cases to report for arsenic poisoning and cadmium poisoning. The corrections are of the measurement utilized and the substance that is to be measured.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because of the need to correct errors in the description of which cases are to be reported for arsenic poisoning and cadmium poisoning.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit on the public and the laboratories performing the tests by correcting inaccurate information.

The State Board of Health adopted these amendments on November 10, 2010.

These amendments became effective November 10, 2010.

These amendments are intended to implement Iowa Code section 139A.21.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 1**, Appendix B, Table of Reportable Poisonings and Conditions, entry for “Arsenic poisoning,” as follows:

Poisoning or Condition	Cases to Report	When to Report	How to Report
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/L µg/g of urinary creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

ITEM 2. Amend **641—Chapter 1**, Appendix B, Table of Reportable Poisonings and Conditions, entry for “Cadmium poisoning,” as follows:

Poisoning or Condition	Cases to Report	When to Report	How to Report
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of <u>creatinine</u>	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

[Filed Emergency 11/10/10, effective 11/10/10]

[Published 12/1/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9244B**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 29C.8, the Homeland Security and Emergency Management Division hereby amends Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

Iowa Code section 29C.8(3) requires the Administrator of the Homeland Security and Emergency Management Division to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This amendment formally adopts the updated Part B: Iowa Hazard Mitigation Plan, which is part of the Iowa Comprehensive Plan.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9150B**. This amendment was also Adopted and Filed Emergency as **ARC 9149B** on the same date. The Division received no public comment on this amendment. This amendment is identical to that published in the Notice of Intended Action and Adopted and Filed Emergency.

This amendment will become effective on January 5, 2011, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code chapter 29C.

The following amendment is adopted.

Amend rule 605—9.3(29C), introductory paragraph, as follows:

605—9.3(29C) Part B: Iowa Hazard Mitigation Plan. The Part B: Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2007 2010, published, and maintained by the division. Part B details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9257B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 118, "Child Care Quality Rating System," Iowa Administrative Code.

The amendments update the quality rating system by removing some criteria, adding additional criteria, and recalibrating the points within the system and the total points required for each level. During the system's three years of operation, providers and stakeholders have brought to the Department's attention changes needed to make the awarding of points more equitable. These amendments include the following changes:

- Clarification that there are separate application forms for child development homes and for centers and preschools, to present the requirements for each provider type more clearly.
- A limit on applications for a Level 1 rating to one 24-month period. Subsequent applications by the same provider must be for a higher level.
- Removal of requirements for the child care business-partnership agreement and the director/owner survey for a Level 2 rating.

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- More points required for Levels 3 to 5 to allow scoring of more variables in each category and to give more weight to facility accreditation and to higher educational achievement by staff.
- Addition of points for parent meetings and parent satisfaction surveys used to inform program practices.
- Requirement of a minimum score of 5.0 on the applicable environment rating scale to receive a Level 5 rating.

The amendments provide for a six-month transition period during which providers may apply for a quality rating under either the current requirements or the new requirements.

These amendments do not provide for waivers in specified situations. Providers have a variety of ways to meet the rating requirements. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 19, 2010, as **ARC 8757B**. The Department received comments on the Notice of Intended Action from 53 people. Major areas of comment were the number of points available for different levels of professional development and the elimination of previously scored areas under health and safety related to actions completed by child care nurse consultants. The Department had recommended removal of these criteria due to the limited availability of qualified nurses after state and local budget cuts and concerns about inter-rater reliability.

In response to these comments, the Department has made the following changes to the amendments as published under Notice of Intended Action:

- Added to Item 3 a new definition of “Aim4Excellence credential,” a national director credential for early childhood administrators.
- Updated the six-month transition period for implementing the new standards to be from February 1, 2011, through July 31, 2011, and reorganized rule 441—118.2(237A) in Item 4 to clarify which forms and standards apply to which facilities and periods.
- Increased the number of points required for a rating at Level 3, 4, or 5 in subrule 118.5(1) and for a rating at Level 3 or 5 in subrule 118.6(1).
- Added the Aim4Excellence credential to the criterion in subparagraph 118.5(2)“a”(1).
- Clarified that only one criterion (the highest applicable) may be scored for each staff member under paragraph 118.5(2)“b” and for the facility under paragraphs 118.5(4)“d” and 118.6(3)“c.”
- Increased the number of potential points for health and safety in subrules 118.5(3) and 118.6(3) and added three more criteria under health and safety: injury prevention, child record review, and health and safety assessment (new paragraphs 118.5(3)“e” to 118.5(3)“g” and 118.6(3)“e” to 118.6(3)“g”).
- Lowered the number of points awarded for completion of a health and safety training session and clarified that points for completion of a health and safety training must be earned within two years before the application date and points for completion of a college health, safety, and nutrition class must be earned within five years before the application date.
- Specified the applicable environment rating scales in subparagraphs 118.5(4)“a”(1) and 118.6(4)“a”(1).
- Increased the number of points available for professional development in subrule 118.6(2) and separated additional professional development criteria from experience and training criteria.
- Clarified in subrule 118.6(2) that points will be awarded for completion of modules 1 and 2 of positive behavior and support training offered by the Center on Social and Emotional Foundations for Learning and increased the number of points awarded for completing modules 1 through 4 of the Program for Infant and Toddler Care.
- Reduced the number of points awarded for most of the education criteria in relettered paragraph 118.6(2)“c” to make the number match the points given to center staff for the same educational level.

The Council on Human Services adopted these amendments on November 10, 2010.

These amendments are intended to implement Iowa Code section 237A.30.

These amendments shall become effective on February 1, 2011.

The following amendments are adopted.

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ITEM 1. Amend **441—Chapter 118**, preamble, as follows:

This chapter establishes rules for the child care quality rating system, which is designed for child care programs that primarily serve children between birth and the age of 12. Participation in the quality rating system is voluntary. The chapter includes application and renewal procedures and standards and criteria for the quality rating system.

ITEM 2. Amend rule **441—118.1(237A)**, definition of “Environment rating scale,” as follows:

“*Environment rating scale*” means a series of child care program assessment instruments instrument (scales scale) developed through the auspices of the Frank Porter Graham Child Development Center of the University of North Carolina at Chapel Hill. The scale is the measurement tool used by an assessor during an on-site observation of a child care classroom to evaluate and provide a score to a child care program. Scales must be administered by entities approved by the department of human services or the department’s designee. Four scales are available, based on the type of program being assessed:

1. Family child care environment rating scale for programs conducted in a provider’s own home for children from infancy through school age.
2. Infant/toddler environment rating scale for group programs for children from birth to 2½ years of age.
3. Early childhood environment rating scale for group programs for children of preschool through kindergarten age, 2½ to 5 years.
4. School-age care environment rating scale for group programs for children of school age, 5 to 12 years.

ITEM 3. Adopt the following new definitions in rule **441—118.1(237A)**:

“*Aim4Excellence credential*” means the national director credential for early childhood administrators that is administered by the McCormick Center for Early Childhood Leadership.

“*Department*” means the department of human services.

ITEM 4. Amend rule 441—118.2(237A) as follows:

441—118.2(237A) Application for quality rating. Eligible applicants shall apply to the department of human services or the department’s designee for a quality rating on Form 470-4229, Application for Quality Rating. Any by submitting the specified application form and any required supporting documentation must be included as part of the application to the department. Applications for a Level 1 rating will not be accepted from programs that have previously been rated at Level 1.

118.2(1) Transition period. For the period February 1, 2011, through July 31, 2011, eligible applicants may apply for a quality rating either under this subrule or under subrule 118.2(2).

a. A child care center or preschool applying under this subrule shall complete Form 470-4229, Application for Quality Rating—Center/Preschool. The quality rating will be based on the standards in rule 441—118.3(237A).

b. A child development home applying under this subrule shall complete Form 470-4302, Application for Quality Rating—Child Development Home. The quality rating will be based on the standards in rule 441—118.4(237A).

118.2(2) Ongoing standards. Until August 1, 2011, eligible applicants have the choice of applying under this subrule or under subrule 118.2(1). Effective August 1, 2011, all eligible applicants must apply for a quality rating under this subrule.

a. A child care center, preschool, or program operating under the authority of an accredited school district or nonpublic school applying under this subrule shall complete Form 470-4902, Quality Rating System Application for Licensed Centers, Preschools, and School-Based Programs. The quality rating will be based on the standards in rule 441—118.5(237A).

b. A child development home applying under this subrule shall complete Form 470-4901, Quality Rating System Application for Child Development Homes. The quality rating will be based on the standards in rule 441—118.6(237A).

118.2(4) 118.2(3) Change in location of facility. Participants If the location of a rated program changes, the program must notify the department of human services or the department’s designee and

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complete a new ~~Form 470-4229, Application for Quality Rating~~, if the location of the facility changes application form as specified in subrule 118.2(1) or 118.2(2). The department ~~or the department's designee~~ shall make a new determination of the appropriate rating.

~~118.2(2) *Renewal.* Participants shall renew participation in the quality rating system every 24 months. To request renewal, eligible applicants shall submit Form 470-4229, Application for Quality Rating, and any required supporting documentation.~~

ITEM 5. Amend rule 441—118.3(237A), introductory paragraph, as follows:

441—118.3(237A) Rating standards for child care centers and preschools (sunsetting on July 31, 2011). ~~To~~ For applications submitted under subrule 118.2(1), to participate in the quality rating system, a child care center or preschool shall certify that its facility meets the applicable criteria as defined in subrule 118.3(1).

ITEM 6. Amend rule 441—118.4(237A), introductory paragraph, as follows:

441—118.4(237A) Rating criteria for child development homes (sunsetting on July 31, 2011). ~~To~~ For applications submitted under subrule 118.2(1), to participate in the quality rating system, a child development home provider shall certify that the home meets the applicable criteria as defined in subrule 118.4(1).

ITEM 7. Renumber rules **441—118.5(237A)** and **441—118.6(237A)** as **441—118.7(237A)** and **441—118.8(237A)**.

ITEM 8. Adopt the following new rules 441—118.5(237A) and 441—118.6(237A):

441—118.5(237A) Rating standards for child care centers, preschools, and programs operating under the authority of an accredited school district or nonpublic school. To participate in the quality rating system, a child care center, preschool, or program operating under the authority of an accredited school district or nonpublic school applying under subrule 118.2(2) shall certify that its facility meets the applicable criteria as defined in subrule 118.5(1).

118.5(1) *Criteria.* Criteria for each rating level are defined as follows:

a. Level 1. To be rated at Level 1, a facility must either:

- (1) Have a full or provisional license from the department with no action pending to revoke or deny the license; or
- (2) Operate under the authority of an accredited school district or nonpublic school.

b. Level 2. To be rated at Level 2, a facility must meet the following criteria:

- (1) The facility must have a full license from the department with no action pending to revoke or deny the license or must operate under the authority of an accredited school district or nonpublic school.
- (2) If eligible, the facility must participate in the child and adult care food program (CACFP), unless children are in attendance less than four hours per day and the program does not serve meals.
- (3) The facility must have on duty in each room at all times at least one staff member who has completed training in mandatory reporting of child abuse, universal precautions and infectious disease control, cardiopulmonary resuscitation, and first aid as specified in 441—subrule 109.7(1) and subparagraphs 109.7(2)“a”(1) and (2).
- (4) The facility must provide basic orientation for all staff before they begin work.
- (5) All staff, including the facility's director, must complete Form 470-4234, Child Care Center Staff Self-Assessment, no more than 12 months before application for quality rating. The director must also complete Form 470-4233, Child Care Center Self-Assessment.

c. Level 3. To be rated at Level 3, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

- (1) The facility must earn a minimum of 17 points from the categories listed in subrules 118.5(2) through 118.5(6).
- (2) The facility must earn at least one point from each category.

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d. Level 4. To be rated at Level 4, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

(1) The facility must earn a minimum of 27 points from the categories listed in subrules 118.5(2) through 118.5(6).

(2) The facility must earn at least one point from each category.

e. Level 5. To be rated at Level 5, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

(1) The facility must earn a minimum of 34 points from the categories listed in subrules 118.5(2) through 118.5(6).

(2) The facility must earn at least one point from each category.

(3) The facility must earn a minimum score of 5.0 in each assessed classroom on the appropriate environment rating scale. An assessor approved by the department or the department's designee must perform the environment rating assessment. At least one-third of the facility's classrooms must be assessed, including at least one classroom in each age group served by the facility.

118.5(2) Professional development. A maximum of 30 points may be earned in the professional development category. Points are awarded as follows:

a. Credential. A maximum of five points may be earned in the credential category.

(1) Five points are awarded if the facility director has a current national administrator credential or Aim4Excellence credential.

(2) Five points are awarded if the facility director is a school principal licensed by the Iowa board of educational examiners.

(3) Five points are awarded if a staff member has completed the two-year Head Start management acceleration program covering all aspects of Head Start management, services and systems.

b. Education and experience. A maximum of 25 points may be earned for education and experience. To arrive at the total number of points earned, each staff member shall indicate the highest applicable education and experience qualification. Points will be assigned for each staff member based on the following criteria, and the total points will be divided by the number of staff. Only one criterion may be scored for each staff member.

(1) Has a master's degree in education appropriate to the age group for whom care is provided: 25 points.

(2) Has a bachelor's degree in education appropriate to the age group for whom care is provided: 20 points.

(3) Has an associate's degree in education appropriate to the age group for whom care is provided: 10 points.

(4) Has a one-year diploma in education appropriate to the age group for whom care is provided: 8 points.

(5) Has an apprenticeship certificate: 7 points.

(6) Has a child development associate credential: 6 points.

(7) Has an Iowa board of educational examiners paraeducator certificate at Level 2, early childhood, plus two years of experience in early childhood education under the supervision of a licensed early childhood teacher: 6 points.

(8) Has nine college credit hours in education specific to the age group for whom care is provided: 5 points.

(9) Has 30 hours of annual approved training beyond regulatory requirements and at least five years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school: 4 points.

(10) Has 15 hours of annual approved training beyond regulatory requirements: 2 points.

118.5(3) Health and safety. A maximum of 19 points may be earned in the health and safety category. Points are awarded as follows:

a. Five points are awarded if within the five-year period before the application date the center director, assistant director, or on-site supervisor has successfully completed a three-semester-hour health, safety, and nutrition class through an approved community college or four-year college.

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b. Two points are awarded if within the two-year period before the application date the center director, assistant director, or on-site supervisor has successfully completed a health and safety training approved by the department for the specific purpose of awarding points in the quality rating system.

c. Two points are awarded if the provider develops and implements an emergency preparedness plan in a format prescribed by the department.

d. Two points are awarded if the provider develops and implements enhanced health and safety policies in a format prescribed by the department.

e. Up to three points may be awarded for injury prevention.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-IP2006, Injury Prevention Summary Report, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has started the process of making recommended corrections.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

f. Up to two points may be awarded for child record review.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-CRR2006, Child Record Review, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has worked with the child care nurse consultant to refer families to health care providers.

g. Up to three points may be awarded for health and safety assessment.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-HSA2006, Health and Safety Assessment, during a visit with the child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has developed a plan of action to correct deficiencies.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

118.5(4) Environment. A maximum of 27 points may be earned in the environment category. Points are awarded as follows:

a. *Training and self-assessment.* A maximum of nine points may be earned in training and self-assessment.

(1) Two points are awarded if the facility director or assistant director completes approved training on the use of the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale to evaluate and improve the facility before outside evaluation.

(2) Two points are awarded if, after completing approved training on how to use the environment rating scale, the facility director or assistant director completes a self-assessment and score sheet of at least one-third of the facility's classrooms, including at least one classroom in each age group served by the facility using the applicable environment rating scale.

(3) Two points are awarded if, after completing approved training on how to use the environment rating scale, the facility director or assistant director completes Form 470-4288, Child Care Center Improvement Plan, based on the environment rating scale self-assessment. Form 470-4288 must be completed for each room for which a self-assessment was completed.

(4) Three points are awarded if, after completing approved training on Iowa quality preschool program standards, the facility director or assistant director completes the Iowa quality preschool program standards self-assessment and develops a quality improvement plan.

b. *Enhanced ratios.* A facility may earn a maximum of three points for enhanced staff-to-child ratios. Three points are awarded if the facility meets accreditation standards for group or class size and staff-to-child ratio from an accrediting body identified at subparagraph 118.5(4)"d"(3) that is appropriate to the child care setting. These points may not be awarded to programs receiving points under subparagraph 118.5(4)"d"(3).

c. *Accreditation preparation.* A facility may earn a maximum of five points for accreditation preparation. Five points are awarded if the facility's accreditation self-assessment is approved by the

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National Association for the Education of Young Children. These points may not be awarded to programs receiving points under subparagraph 118.5(4)“d”(3).

d. Accreditation. A facility may earn a maximum of 18 points for accreditation. Points are awarded for one of the following criteria:

(1) Five points are awarded if the program is verified by the Iowa quality preschool program standards.

(2) Six points are awarded if a Head Start program demonstrates compliance with Head Start program performance standards.

(3) Eighteen points are awarded if the facility is accredited by the National Association for the Education of Young Children, the National Afterschool Association, or another accrediting body approved by the department.

118.5(5) Family and community partnerships. A maximum of eight points may be earned in the family and community partnership category. Points are awarded as follows:

a. One point is awarded if the facility or the facility director is a member of a professional organization specific to the age group for whom care is provided.

b. One point is awarded if the facility provides orientation for new parents.

c. One point is awarded if the facility holds annual conferences with parents.

d. One point is awarded if the facility holds at least one parent meeting annually.

e. Two points are awarded if a parent advisory board coordinated by the facility meets quarterly.

f. Two points are awarded if the facility collects annual parent surveys and uses the results to inform program practices.

118.5(6) Leadership and administration. A maximum of seven points may be earned in the leadership and administration category. Points are awarded as follows:

a. Two points are awarded if the facility completes yearly written evaluations for all staff.

b. One point is awarded if the facility develops an improvement plan using Form 470-4235, Child Care Center Improvement Plan, and updates the form annually.

c. One point is awarded if all staff complete Form 470-4236, Professional Development Plan.

d. Three points are awarded if all staff who have direct contact with children complete one of the following within four months of beginning employment with the facility:

(1) The new staff orientation training delivered by Iowa state university that provides new center and preschool staff a full, program-based orientation, or

(2) Another curriculum approved by the department.

441—118.6(237A) Rating criteria for child development homes. To participate in the quality rating system, a child development home provider applying under subrule 118.2(2) shall certify that the home meets the applicable criteria as defined in subrule 118.6(1).

118.6(1) Criteria for each rating level.

a. Level 1. To be rated at Level 1, the home must be a registered child development home.

b. Level 2. To be rated at Level 2, the home must meet the following criteria in addition to meeting the criterion for Level 1:

(1) The provider completes and maintains ChildNet certification.

(2) The provider participates in the child and adult care food program (CACFP).

(3) The provider completes Form 470-4231, Child Development Home Professional Development Self-Assessment.

(4) The provider completes Form 470-4236, Professional Development Plan.

c. Level 3. To be rated at Level 3, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

(1) The home must earn a minimum of 14 points from the categories listed in subrules 118.6(2) through 118.6(5).

(2) The home must earn at least one point from each category.

d. Level 4. To be rated at Level 4, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

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(1) The home must earn a minimum of 19 points from the categories listed in subrules 118.6(2) through 118.6(5).

(2) The home must earn at least one point from each category.

e. Level 5. To be rated at Level 5, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

(1) The home must earn a minimum of 25 points from the categories listed in subrules 118.6(2) through 118.6(5).

(2) The home must earn at least one point from each category.

(3) The home must earn a minimum score of 5.0 on the family child care environment rating scale.

An assessor approved by the department or the department's designee must perform the assessment.

118.6(2) Professional development. A child development home may earn a maximum of 34 points in the professional development category. For child development homes registered as Category C, points will be awarded only to the coprovider who has earned the most points. Points are awarded as follows:

a. Experience and training. A home may earn a maximum of four points for experience and training. Points are awarded as follows:

(1) Two points are awarded if the provider has at least two years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school and 10 hours of additional training per year beyond regulatory requirements.

(2) Four points are awarded if the provider has at least five years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school and 20 hours of additional training per year beyond regulatory requirements.

b. Additional professional development. A home may earn a maximum of five points for additional professional development. Points are awarded as follows:

(1) Two points are awarded if the provider successfully completes approved modules 1 and 2 of positive behavior and intervention support training developed by the Center on Social and Emotional Foundations for Learning (CSEFEL). Modules 1 and 2 total a minimum of 12 hours of training which focuses on promoting effective classroom and center practices that enhance the social and emotional competency of young children.

(2) Three points are awarded if the provider successfully completes modules 1 through 4 of the program for infant and toddler care developed by WestEd and the California Department of Education, covering social-emotional growth and socialization, group care, learning and development, culture, and family and providers.

c. Education. A home may earn a maximum of 25 points for education. Points are awarded for one of the following criteria:

(1) Twenty-five points are awarded if the provider has completed a master's degree in education appropriate to the age group for whom care is provided.

(2) Twenty points are awarded if the provider has completed a bachelor's degree in education appropriate to the age group for whom care is provided.

(3) Ten points are awarded if the provider has completed an associate's degree in education appropriate to the age group for whom care is provided.

(4) Eight points are awarded if the provider has completed a one-year diploma in education appropriate to the age group for whom care is provided.

(5) Seven points are awarded if the provider has a current apprenticeship certificate.

(6) Six points are awarded if the provider has a current child development associate credential.

(7) Five points are awarded if the provider has completed at least nine college credit hours in education specific to the age group for whom care is provided.

118.6(3) Health and safety. A child development home may earn a maximum of 19 points in the health and safety category. Points are awarded as follows:

a. Five points are awarded if within the five-year period before the application date the provider successfully completes a three-semester-hour health, safety, and nutrition class through an approved community college or four-year college.

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b. Two points are awarded if within the two-year period before the application date the provider successfully completes a health and safety training approved by the department for the specific purpose of awarding points in the quality rating system.

c. Two points are awarded if the provider develops and implements an emergency preparedness plan in a format prescribed by the department.

d. Two points are awarded if the provider develops and implements enhanced health and safety policies in a format prescribed by the department.

e. Up to three points may be awarded for injury prevention.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-IP2006, Injury Prevention Summary Report, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has started the process of making recommended corrections.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

f. Up to two points may be awarded for child record review.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-CRR2006, Child Record Review, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has worked with the child care nurse consultant to refer families to health care providers.

g. Up to three points may be awarded for health and safety assessment.

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-HSA2006, Health and Safety Assessment, during a visit with the child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has developed a plan of action to correct deficiencies.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

118.6(4) Environment. A child development home may earn a maximum of 23 points in the environment category. Points are awarded as follows:

a. *Environment rating scale training and self-assessment.* A home may earn a maximum of six points for environment rating scale training and self-assessment. Points are awarded as follows:

(1) Two points are awarded if the provider completes approved training on how to use the family child care environment rating scale to assess the child development home environment.

(2) Two points are awarded if, after completing training on how to use the environment rating scale, the provider completes a self-assessment and score sheet using the environment rating scale.

(3) Two points are awarded if, after completing training on how to use the environment rating scale and completion of the environment rating scale self-assessment and score sheet, the provider completes Form 470-4232, Child Development Home Improvement Plan, based on the environment rating scale self-assessment.

b. *Enhanced ratios.* A home may earn a maximum of two points for enhanced staff-to-child ratios. Two points are awarded if no more than two children under the age of two are in care at any one time and no more than six children total are in care at any one time, including the provider's own children under school age.

c. *Accreditation.* A home may earn a maximum of 15 points for accreditation. Fifteen points are awarded if the home is accredited by the National Association for Family Child Care or another accrediting body approved by the department.

118.6(5) Family and community partnerships. A child development home may earn a maximum of six points in the family and community partnership category. Points are awarded as follows:

a. One point is awarded if the provider is a member of a professional organization specific to the age group for whom care is provided.

b. One point is awarded if the provider offers an orientation for new parents.

c. One point is awarded if the provider holds annual conferences with parents.

d. One point is awarded if the provider holds at least one parent meeting annually.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Two points are awarded if the provider collects annual parent surveys and uses the results to inform program practices.

ITEM 9. Amend renumbered subrule 118.7(3) as follows:

118.7(3) Participants may request another quality rating for the purpose of increasing their rating no sooner than 12 months after issuance of a quality rating certificate.

ITEM 10. Adopt the following **new** subrule 118.7(4):

118.7(4) Ratings are effective for 24 months from the date of issuance.

ITEM 11. Adopt the following **new** subrule 118.8(4):

118.8(4) Ratings are effective for 24 months from the date of issuance.

ITEM 12. Amend **441—Chapter 118**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 237A.30 ~~as amended by 2005 Iowa Acts, House File 761, section 20.~~

[Filed 11/10/10, effective 2/1/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9258B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 176, "Dependent Adult Abuse," Iowa Administrative Code.

These amendments:

- Add a new definition of "at-risk adult" which applies to the dependent adult's need for continued monitoring and services.
- Update procedures for storing the Department's report on the evaluation or assessment, as a result of the implementation of a new data system for dependent adult abuse information.
- Add procedures for referrals to other agencies, safety plans, and periodic visits.
- Require two new forms, a uniform assessment tool and a safety plan, to assist the Department in making more thorough assessments of dependency and risk for all alleged victims of abuse and to enhance the safety of at-risk adults.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 25, 2010, as **ARC 9027B**. The Department received comments on the Notice of Intended Action from one person.

The commenter was concerned about the number of extensions allowed for completion of the evaluation report and feared that this time line also applied to actions taken to protect the dependent adult. The Department's policy is to attend to a person's immediate needs when a person is at risk of abuse. The extensions available for filing the written report are used when the worker is waiting for medical or financial reports, has not been able to locate witnesses, or has to conduct additional evaluation to resolve contradictory evidence.

The commenter also requested clarification about continued involvement of the Department when the at-risk adult has agreed to a referral for services. Periodic visits by the investigator are discontinued when the adult has agreed to services and signed a safety plan.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 10, 2010.

These amendments are intended to implement 2009 Iowa Code Supplement section 235B.16A.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective on February 1, 2011.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [176.1, 176.6] is being omitted. These amendments are identical to those published under Notice as **ARC 9027B**, IAB 8/25/10.

[Filed 11/10/10, effective 2/1/11]

[Published 12/1/10]

[For replacement pages for IAC, see IAC Supplement 12/1/10.]

ARC 9253B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The purpose of the adopted amendments is to add Det Norske Veritas (DNV) to the list of hospital accreditation organizations. Current rules specify only two accreditation organizations, The Joint Commission and the American Osteopathic Association. The third organization, Det Norske Veritas, was recently approved by the federal Centers for Medicare & Medicaid Services (CMS) as a hospital accreditation organization.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9120B**. No comments were received; no changes were made to the amendments published under Notice of Intended Action.

The amendments were presented to the Hospital Licensing Board at its July 27, 2010, meeting, at which time the Board approved them.

The State Board of Health initially reviewed the proposed amendments at its September 8, 2010, meeting, and subsequently approved the adopted amendments at its November 10, 2010, meeting.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

These amendments shall become effective January 5, 2011.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [51.2, 51.6, 51.53(7)] is being omitted. These amendments are identical to those published under Notice as **ARC 9120B**, IAB 10/6/10.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

[For replacement pages for IAC, see IAC Supplement 12/1/10.]

ARC 9252B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The adopted amendment updates the Department's administrative rules dealing with food services provided in hospitals by adopting the Iowa food code as authorized in Iowa Code section 137F.2. Adoption of the Iowa food code will bring hospital food service requirements into conformance with all other food establishment requirements in the state of Iowa. Additionally, federal Medicare regulations

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

require that hospitals use the latest edition of the United States Food and Drug Administration Food Code for food service purposes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9121B**. Comments were received during the initial review of the amendment by the State Board of Health regarding practitioners who may order patient meals.

The word “physician” has been replaced in the adopted amendment with the term “qualified health care practitioner,” which is consistent with the federal Medicare regulations. Use of “qualified health care practitioner” permits mid-level practitioners to order patient meals and prescribe therapeutic diets. Additionally, the 1989 edition date for the Recommended Dietary Allowances has been omitted because federal regulations require use of the most current allowances adopted by the Food and Nutrition Board.

The amendment was presented to the Hospital Licensing Board at its July 27, 2010, meeting, at which time it was approved by the Board.

The State Board of Health initially reviewed the proposed amendment at its September 8, 2010, meeting, and subsequently approved the adopted amendment at its November 10, 2010, meeting.

This amendment is intended to implement Iowa Code sections 10A.104(5) and 135B.7.

This amendment shall become effective January 5, 2011.

The following amendment is adopted.

Rescind rule 481—51.20(135B) and adopt the following **new** rule in lieu thereof:

481—51.20(135B) Food and nutrition services.

51.20(1) Food and nutrition service definition. “Food service” means providing safe, satisfying, and nutritionally adequate food for patients through the provision of appropriate staff, space, equipment, and supplies. “Nutrition service” means providing assessment and education to ensure that the nutritional needs of the patients are met.

51.20(2) General requirements.

a. All food shall be handled, prepared, served, and stored in compliance with the requirements of the 2005 Food and Drug Administration Food Code with Supplement adopted under provisions of Iowa Code section 137F.2.

b. The food service shall provide food of the quality and quantity to meet the patient’s needs in accordance with the qualified health care practitioner’s orders and, to the extent medically possible, to meet the current Recommended Dietary Allowances, adopted by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and the following:

(1) Not less than three meals shall be served daily unless contraindicated.

(2) Not more than 14 hours shall elapse between the evening meal and breakfast of the following day.

(3) Nourishment between meals shall be available to all patients unless contraindicated by the qualified health care practitioner.

(4) Patient food preferences shall be respected as much as possible, and substitutes shall be offered through use of appropriate food groups.

(5) When food is provided by a contract food service, all applicable requirements set forth herein shall be met. The hospital shall maintain adequate space, equipment, and staple food supplies to provide patient food service in emergencies.

c. Policies and procedures shall be developed and maintained in consultation with representatives of the medical staff, nursing staff, food and nutrition service staff, pharmacy staff, and administration to govern the provision of food and nutrition services. Policies and procedures shall be approved by the medical staff, administration, and governing body.

d. A current diet manual approved by the dietitian and the medical staff shall be used as the basis for diet orders and for planning therapeutic diets. The diet manual shall be reviewed, revised and updated at least every five years. Copies of the diet manual shall be readily available to all medical, nursing, and food service personnel.

e. Therapeutic diets shall be provided as prescribed by the qualified health care practitioner and shall be planned, prepared, and served with supervision or consultation from the licensed dietitian.

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Persons responsible for therapeutic diets shall have sufficient knowledge of food to make appropriate substitutions when necessary.

f. The patient's diet card shall state likes, dislikes, food allergies, and other pertinent information.

g. Menus.

(1) Menus for regular and therapeutic diets shall be written, approved, dated and available in the food service area at least one week in advance.

(2) If meals served vary from the planned menu, the change shall be noted in writing as part of the available menu. A copy of the menu as served shall be kept on file for at least 30 days.

(3) Menus should be planned with consideration for cultural and religious background and food habits of patients.

(4) Standardized recipes with nutritional analysis adjusted to number of portions shall be maintained and used in food preparation.

h. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance. Food shall be served attractively at appropriate and safe temperatures and in a form to meet individual needs.

i. Nutritional care.

(1) Nutrition screening shall be conducted by qualified hospital staff to determine the patient's need for a comprehensive nutrition assessment by the licensed dietitian.

(2) Nutritional care shall be integrated in the patient care plan, as appropriate, based upon the patient's diagnosis and length of stay.

(3) The licensed dietitian shall record in the patient's medical record any observations and information pertinent to medical nutrition therapy.

(4) Pertinent dietary records shall be included in the patient's transfer discharge record to ensure continuity of nutritional care.

(5) Upon discharge, nutrition counseling and education shall be provided to the patient and family as ordered by the qualified health care practitioner, requested by the patient or deemed appropriate by the licensed dietitian.

j. In-service training, in accordance with hospital policies, shall be provided for all food and nutrition service personnel. A record of subject areas covered, date and duration of each session, and attendance lists shall be maintained. In-service records shall be kept for a minimum of one year.

k. On the nursing units, a separate patient food storage area shall be maintained that ensures proper temperature control.

51.20(3) Food and nutrition service staff.

a. A licensed dietitian shall be employed on a full-time, part-time or consulting basis. Part-time or consultant services shall be provided on the premises at appropriate times on a regularly scheduled basis. These services shall be of sufficient duration and frequency to provide continuing liaison with medical and nursing staffs, advice to the administrator, patient counseling, guidance to the supervisor and staff of the food and nutrition service, approval of all menus, and participation in the development or revision of departmental policies and procedures and in planning and conducting in-service education programs.

b. If a licensed dietitian is not employed full-time, then one must be employed on a part-time or consultation basis with an additional full-time person who has completed a 250-hour dietary manager course and who shall be employed to be responsible for the operation of the food service.

c. Sufficient food service personnel shall be employed, oriented, trained, and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the food service areas. If food service employees are assigned duties in other service areas, those duties shall not interfere with the sanitation, safety, or time required for food service work assignments.

51.20(4) Food service equipment and supplies. Equipment necessary for preparation and maintenance of menus, records, and references shall be provided. At least one week's supply of staple

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

foods and a reasonable supply of perishable foods shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9251B**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The amendments adopt the 2010 Guidelines for Design and Construction of Health Care Facilities produced by the Facility Guidelines Institute as the minimum construction standards for hospitals and off-site premises licensed under Iowa Code chapter 135B.

The adopted amendments also contain provisions stipulating that hospitals and off-site premises shall be deemed to be in compliance with the minimum construction standards if the buildings met the construction standards in place at the time the buildings were built. Additional language in the adopted amendments requires that all hospitals and off-site premises meet the requirements of the State Building Code and the Life Safety Code.

The rewrite of the minimum construction standards contains requirements for the filing of all construction documents with the State Fire Marshal's office. The amendments closely follow the submission requirements in the administrative rules of the State Fire Marshal's office and further require that the responsible design professional certify that the building plans meet the requirements of the 2010 Guidelines unless a variance has been granted.

Adopted subrule 51.50(3) contains the provisions under which variances from the minimum construction standards may be sought. The introductory paragraph is expanded to include some of the components of a variance request, and several factors that the Director shall consider when making a determination.

Additionally, the administrative rules of the State Fire Marshal's office, Building Code Bureau, contain the inspection standards to be used when existing buildings are inspected; these amendments adopt the administrative rule language of the State Fire Marshal's office for the inspection of existing hospitals and off-site premises.

Item 2 of the adopted amendments rescinds rules dealing with minimum construction standards in effect for specific periods. With the adoption of the amendments in Item 1, it will not be necessary to differentiate the various construction guidelines used because the amendments in Item 1 contain language which deems existing facilities to be in compliance with previous editions of the guidelines.

Notice of Intended Action was published in the Iowa Administrative Bulletin on Oct. 6, 2010, as **ARC 9119B**. No comments were received; no changes were made to the amendments published under Notice of Intended Action.

These amendments were approved by the Hospital Licensing Board at its July 27, 2010, meeting.

The State Board of Health initially reviewed the proposed amendments at its September 8, 2010, meeting, and subsequently approved the amendments at its November 10, 2010, meeting.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

These amendments shall become effective January 5, 2011.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [51.50 to 51.52] is being omitted. These amendments are identical to those published under Notice as **ARC 9119B**, IAB 10/6/10.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

[For replacement pages for IAC, see IAC Supplement 12/1/10.]

ARC 9249B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 9, "Outpatient Diabetes Education Programs," Iowa Administrative Code.

The rules in Chapter 9 describe the standards for outpatient diabetes self-management education programs and the procedures programs must follow for certification by the Iowa Department of Public Health that will allow for third-party reimbursement. These amendments expand credentialing bodies, clarify curriculum, add definitions and update bureau and division references and contact information.

Notice of Intended Action was published in the September 22, 2010, Iowa Administrative Bulletin as **ARC 9092B**. Comments were received at a public hearing on October 12, 2010, and in written form. Comments were presented at the hearing on behalf of the Iowa Nurses Association, the Iowa School Nurses Organization and the Iowa Chapter of the American Association of Diabetes Educators. Written comments were submitted by these organizations and by six other individuals and organizations, which included the Iowa Board of Nursing and the Iowa Pharmacy Association.

As a result of comments, the following changes were made to the Noticed amendments: Iowa Code chapter references will not be removed from definitions in rule 641—9.2(135); therefore, Noticed Item 2 has not been adopted, and the subsequent items have been renumbered. Also, in rule 641—9.5(135), programs shall renew their certification every four years instead of three to align with the recognition and accreditation periods of the American Diabetes Association and the American Association of Diabetes Educators and in rule 641—9.9(135), programs shall submit information to the Department every four years instead of three for consistency. In addition, several nonsubstantive technical changes have been made.

The State Board of Health adopted these amendments on November 10, 2010.

These amendments will become effective on January 5, 2011.

These amendments are intended to implement Iowa Code chapter 135.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **641—9.2(135)**:

"*AADE*" means the American Association of Diabetes Educators.

"*Accredited*" means that a program is currently accredited by the American Association of Diabetes Educators.

"*Recognized*" means that a program is currently recognized by the American Diabetes Association.

ITEM 2. Amend subrule 9.3(1) as follows:

9.3(1) Develop minimum standards in ~~consultation~~ coordination with the American Diabetes Association, ~~Great Plains affiliate~~ and the American Association of Diabetes Educators.

ITEM 3. Amend paragraph **9.3(3)"c"** as follows:

c. The certification package is available from the Bureau of ~~Health Promotion~~ Chronic Disease Prevention and Management, Division of ~~Substance Abuse and Health Promotion~~ and Chronic Disease

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Prevention, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 4. Amend rule 641—9.4(135) as follows:

641—9.4(135) Application procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs. When ~~the~~ a program is recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators, the program shall apply for certification to the department by submitting a copy of the Certificate of Recognition provided by ADA or the Certificate of Accreditation provided by AADE, the name, address and telephone number for the program, the name of the program coordinator and the name of the program physician. In addition, since the ADA recognition ~~program does~~ and the AADE accreditation programs do not require the participation of a pharmacist but the Iowa law does, an ADA-recognized program and AADE-accredited programs shall submit the name(s), license number(s) and continuing education hours of the pharmacist(s) who serves as program staff. A pharmacist shall be a primary or supporting instructor or advisory committee member and shall meet the education requirements in 9.8(6), 9.8(7) or 9.8(8). ~~The expiration date for the certification of an ADA-recognized program shall be six months after the expiration date of the ADA recognition.~~

ITEM 5. Amend rule 641—9.5(135) as follows:

641—9.5(135) Renewal procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs. Programs shall renew their certification every four years, at least 30 days prior to the expiration date. To apply for renewal of certification, the ADA-recognized program or the AADE-accredited program shall submit a copy of the new ADA Certificate of Recognition or AADE Certificate of Accreditation, the name, address and telephone number for the program, the name of the program coordinator, the name of the program physician, and the name(s), license number(s), and continuing education hours of the pharmacist(s) who serves as program staff. A pharmacist shall be a primary or supporting instructor or advisory committee member and shall meet the continuing education requirements in ~~9.9(6)~~ 9.9(7).

ITEM 6. Amend rule 641—9.6(135), catchwords, as follows:

641—9.6(135) Application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators.

ITEM 7. Amend subrule 9.6(2) as follows:

9.6(2) Applications from programs not recognized by ADA or accredited by AADE shall provide the following information:

a. to d. No change.

e. A description of the curriculum designed to instruct the participant with diabetes how to achieve self-management competency. The curriculum shall cover the same ~~15~~ content areas as are required by the ADA for recognition or the AADE for accreditation including: ~~—These topics are listed below.~~

(1) Diabetes overview: includes content about the diabetes disease process, pathophysiology and treatment/management options.

(2) Stress and psychological adjustment: includes developing personal strategies to address psychological issues, healthy coping, and problem solving.

(3) Family involvement and social support: includes strategies for safety and risk reduction and creating healthy environments and social supports.

(4) Nutrition: includes incorporating nutritional management (healthy eating) into lifestyle.

(5) Exercise and activity: includes incorporating physical activity (being active) into lifestyle.

(6) Medications: includes using medications safely and for maximum therapeutic benefit.

(7) Monitoring and use of results: includes monitoring blood glucose and other health indicators or parameters and interpreting and using the results for self-management decision making.

(8) ~~Relationship among nutrition, exercise, medication and blood glucose levels.~~

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~~(9)~~ (8) Prevention Reducing risks: includes prevention, detection, and treatment of acute complications and chronic complications as well as foot, skin and dental care.

~~(10)~~ Prevention, detection, and treatment of chronic complications.

~~(11)~~ Foot, skin, and dental care.

(12) (9) Behavior change strategies, goal setting, risk-factor reduction, and problem solving; includes personal goals and strategies to address risks and build positive habits.

~~(13)~~ Benefits, risks, and management options for improving glucose control.

(14) (10) Preconception care, pregnancy, and gestational diabetes.

~~(15)~~ (11) Use of health care systems and community resources.

ITEM 8. Amend rule 641—9.7(135), catchwords, as follows:

641—9.7(135) Diabetes program management for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators.

ITEM 9. Amend rule 641—9.8(135), catchwords, as follows:

641—9.8(135) Program staff for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators.

ITEM 10. Amend rule 641—9.9(135) as follows:

641—9.9(135) Renewal application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators. Every ~~three~~ four years, programs shall provide the following information to the department at least 30 days prior to the expiration date.

9.9(1) to 9.9(3) No change.

9.9(4) A description of the program evaluation process.

~~9.9(4)~~ **9.9(5)** A description of any changes from the previous application.

~~9.9(5)~~ **9.9(6)** A list of new program staff by name, license number or registration number, and position with the program. New staff who will serve as primary instructors shall submit documentation of their training in diabetes as addressed in 9.8(6). New staff serving as supporting instructors shall submit documentation of their training as addressed in 9.8(7).

~~9.9(6)~~ **9.9(7)** Documentation of continuing education hours accrued since the previous application for current staff and new staff.

a. to c. No change.

ITEM 11. Amend rule 641—9.10(135) as follows:

641—9.10(135) Annual report. Summary data shall be completed annually by each program and sent to the department. The data shall include but not be limited to the number of times the program was presented, the number of outpatients that participated, and a summarized description of program participants including type of diabetes, age, race and sex.

ITEM 12. Amend subrule 9.12(1) as follows:

9.12(1) The department shall accept complaints of alleged problems relating to certified outpatient diabetes self-management programs. The information shall state in a reasonably specific manner the basis of the complaints and be presented in writing, in person or by telephone to: Bureau of ~~Health Promotion~~ Chronic Disease Prevention and Management, Division of ~~Substance Abuse and Health Promotion and Chronic Disease Prevention~~, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; (515)281-6779 5616.

ITEM 13. Amend subrule 9.14(7) as follows:

9.14(7) *Petition for judicial review.* Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the director by certified mail, return receipt requested, or by personal service.

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The address is: Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

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[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9248B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 691.6(6), the Iowa Department of Public Health hereby amends Chapter 90, "Iowa Child Death Review Team," Iowa Administrative Code.

These amendments incorporate changes to the rules governing the purpose and function of the Iowa child death review team in identifying preventable deaths of children under 18 years of age and methods for prevention of such deaths.

Notice of Intended Action was published in the July 28, 2010, Iowa Administrative Bulletin as **ARC 8973B**. Comments were received from the Department of Human Services and Mary O'Brien, a member of the Polk County Child Death Review Team. The following changes were made as a result of these comments:

- In rule 641—90.6(135), the phrase "or as determined by the review team" was added.
- In rule 641—90.8(135) regarding team responsibilities, language was added to clarify that all child deaths in Iowa will be reviewed by the state medical examiner's office, and those deemed preventable will be referred for additional review by the child death review team.

The State Board of Health adopted these amendments on November 10, 2010.

These amendments will become effective on January 5, 2011.

These amendments are intended to implement 2009 Iowa Code Supplement section 135.43.

The following amendments are adopted.

ITEM 1. Amend rule 641—90.1(135) as follows:

641—90.1(135) Purpose. The purpose of the Iowa child death review team is to aid in the reduction of ~~the incidence of serious injury and death to children by accurately identifying the cause and manner of child death for children under age 18~~ preventable deaths of children under the age of 18 years through the identification of unsafe consumer products; identification of unsafe environments; identification of factors that play a role in accidents, homicides and suicides which may be eliminated or counteracted; and promotion of communication, discussion, cooperation, and exchange of ideas and information among agencies investigating child deaths.

ITEM 2. Amend rule 641—90.3(135) as follows:

641—90.3(135) Agency. The Iowa child death review team is established as ~~an independent agency of state government~~ part of the office of the state medical examiner. ~~The Iowa department of public health~~ office of the state medical examiner shall provide staffing and administrative support to the team as needed to collect data, organize meetings, and issue an annual report.

ITEM 3. Amend rule 641—90.4(135) as follows:

641—90.4(135) Membership. The membership of the review team is subject to the provisions of Iowa Code sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the ~~director of public health in consultation with the director of human services~~ state medical examiner. Membership terms shall be for three years. Members may not serve more than two consecutive terms.

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90.4(1) The review team shall include the following:

- a. ~~The state medical examiner or the state medical examiner's designee.~~
- b. to n. No change.

The state medical examiner's office may temporarily appoint other members to serve as experts, as needed, on a case-by-case basis.

90.4(2) No change.

90.4(3) Three consecutive unexcused absences shall be grounds for the ~~director~~ state medical examiner to consider dismissal of the team member and to appoint another. The chairperson of the team is charged with providing notification of absences.

ITEM 4. Amend rule 641—90.5(135) as follows:

641—90.5(135) Officers. ~~Officers of the team shall be a chairperson and a vice chairperson and shall be elected at the first meeting of each fiscal year unless designated at the time of appointment. The review team shall elect a chairperson, a vice chairperson, and other officers as deemed necessary by the review team. Officers shall be elected at the first meeting of each fiscal year. Vacancy in the office of the chairperson shall be filled by elevation of the vice chairperson. Vacancy in the office of the vice chairperson shall be filled by election at the next meeting after the vacancy occurs. The chairperson shall preside at all meetings of the team, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.~~

ITEM 5. Amend rule 641—90.6(135) as follows:

641—90.6(135) Meetings. ~~The team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by the team as determined by the state medical examiner or as determined by the review team. Robert's Rules of Order shall govern all meetings.~~

ITEM 6. Amend rule 641—90.7(135) as follows:

641—90.7(135) Expenses of team members. ~~The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties. The state medical examiner's office shall reimburse members of the team for travel expenses according to state guidelines.~~

ITEM 7. Amend rule 641—90.8(135) as follows:

641—90.8(135) Team responsibilities. The state medical examiner's office will be responsible for the collection of data for sudden unexpected or nonnatural deaths for all children under the age of 18 years that occur in the state of Iowa. The state medical examiner's office will review all child deaths in Iowa and will refer those deemed preventable for additional review by the child death review team. The state medical examiner's office will be responsible for data entry. The team shall perform the following responsibilities:

1. **90.8(1)** Collect, review, and analyze child death certificates and child death data, including patient records ~~or~~ other pertinent confidential information, and other information the review team deems appropriate concerning deaths of children aged six or younger, under 18 years of age which have been deemed preventable by the state medical examiner's office and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. An annual report will be prepared for the governor and the general assembly concerning the cause and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.

2. **90.8(2)** Recommend to the governor and the general assembly interventions to prevent deaths of children based on an analysis of the cause and manner of such deaths.

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~~3. **90.8(3)** Recommend to the agencies represented on the review team and to other agencies changes which may prevent child deaths.~~

~~4. **90.8(4)** Maintain the confidentiality of any patient records or other confidential information reviewed.~~

~~5. **90.8(5)** Develop protocols for and establish a committee to review child abuse investigations which involve the death of a child. If deemed appropriate by the team at any point in the review, the team may recommend to the department of human services, appropriate law enforcement agencies, and any person involved with child protection interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.~~

90.8(6) Develop protocols for a child fatality review committee (see 641—Chapter 92) to be appointed by the state medical examiner on an ad hoc basis to immediately review the child abuse assessments which involve the fatality of a child under the age of 18 years. The state medical examiner shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

~~6. **90.8(7)** The team may establish subcommittees to which the team may delegate some or all of the team's responsibilities set out in this rule.~~

ITEM 8. Amend rule 641—90.9(135) as follows:

641—90.9(135) Liaisons.

90.9(1) The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities.

- ~~1. a. Director of public health.~~
- ~~2. b. Director of human services.~~
- ~~3. c. Commissioner of public safety.~~
- ~~4. d. Administrator of the bureau of vital records of the Iowa department of public health.~~
- ~~5. e. Attorney general.~~
- ~~6. f. Director of transportation.~~
- ~~7. g. Director of the department of education.~~

90.9(2) The chairperson shall designate a liaison from the public at large.

90.9(3) The membership terms of the liaisons shall be for three years. The liaisons may not serve more than two consecutive terms.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/1/10.

ARC 9247B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of 2009 Iowa Code Supplement section 135.175(5) as amended by 2010 Iowa Acts, Senate File 2384, section 5, the Department of Public Health hereby adopts new Chapter 111, "Iowa Needs Nurses Now Infrastructure Account," Iowa Administrative Code.

These rules provide for the awarding of grants for infrastructure to improve the education of nurses and nurse educators in Iowa and to enhance the clinical experience for nurses.

Notice of Intended Action was published in the September 22, 2010, Iowa Administrative Bulletin as **ARC 9096B**. Comments were received from the Iowa Nurses Association and the Iowa Board of Nursing; both were in support of the new chapter. The adopted rules are identical to those published under Notice.

The State Board of Health adopted these rules on November 10, 2010.

These rules will become effective on January 5, 2011.

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These rules are intended to implement 2009 Iowa Code Supplement section 135.175(5) as amended by 2010 Iowa Acts, Senate File 2384, section 5.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 111] is being omitted. These rules are identical to those published under Notice as **ARC 9096B**, IAB 9/22/10.

[Filed 11/10/10, effective 1/5/11]

[Published 12/1/10]

[For replacement pages for IAC, see IAC Supplement 12/1/10.]

ARC 9246B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of 2009 Iowa Code Supplement section 135A.9, the Department of Public Health hereby adopts new Chapter 186, "Governmental Public Health Advisory Bodies," Iowa Administrative Code.

The Iowa Public Health Modernization Act was established to modernize the governmental public health system to meet the challenges of the twenty-first century and improve governmental public health system capacity in order to provide the equitable delivery of public health services across the state. Pursuant to 2009 Iowa Code Supplement chapter 135A, the Department has established an advisory council and evaluation committee to enhance the governmental public health system and evaluate progress towards the accreditation of local and state public health agencies.

Notice of Intended Action was published in the September 22, 2010, Iowa Administrative Bulletin as **ARC 9093B**. No comments were received. One nonsubstantive change has been made to the rules published under Notice: The term "department director" has been changed to "director" in subrule 186.3(5).

The State Board of Health adopted these rules on November 10, 2010.

These rules will become effective on January 5, 2011.

These rules are intended to implement 2009 Iowa Code Supplement sections 135A.4 and 135A.5.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 186] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 9093B**, IAB 9/22/10.

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AGENCY	RULE	DELAY
Environmental Protection Commission[567]	23.1(4), introductory paragraph; 23.1(4)“ev” and “fa” to “fd” [IAB 10/20/10, ARC 9154B]	Effective date of November 24, 2010, delayed 70 days by the Administrative Rules Review Committee at its meeting held November 9, 2010. [Pursuant to §17A.4(7)]